HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 206/06 (S/S)

Manoj S/o Sukh Lal.

vs

State of Uttaranchal and others.

Approved for reporting

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~~Not approved for reporting~~

Date of decision 27-02-2006

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 206 (SS) OF 2006

Manoj, S/o Sukh Lal,
R/o Prathmik Swasthya Kendra (Parishad),
Chinyani Sond, District Uttarkashi. .....Petitioner.

Versus

1. State of Uttaranchal, through Secretary Medical Health and Family Welfare Department, Dehradun.
2. Director of Medical Health and Family Welfare, Dehradun.
3. Chief Medical Officer, Uttarkashi. .....Respondents.

Sri R.C. Tamta, Advocate for the petitioner.
Learned Standing Counsel for the State.

Dated: 27.02.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondents to give compassionate appointment to the petitioner in place of his mother.

2. Brief facts giving rise to the present writ petition are that the mother of the petitioner was working as Class IV employee/ Sweeper in Mahila Hospital Chinyali Sond and during the tenure of her service, she died on 27.03.2005.

3. The petitioner has submitted that his mother was only the bread-earner in his family and after her death, there is no other source of livelihood.

4. After the death of his mother, the petitioner made a representation on 17.04.2005, but no action taken on that representation, therefore, again on 09.12.2005, the petitioner

filed second representation, but the same has also not yet been decided.

5. The Apex Court in the case of ***Sushma Gosain Vs. Union of India and others (1989) 4 SCC 468*** is concerned, the relevant observations are quoted below:-

"We consider that it must be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant."

6. The Apex Court in the case of ***Umesh Kumar Nagpal Vs. State of Haryana (1994) 4 SCC 138*** has relied upon the judgment of ***Sushma Gosain v. Union of India (1989) 4 SCC 468.*** The relevant observations are quoted below:-

"The whole object of granting compassionate employment in thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to; be offered to the eligible member of the family."

6. Therefore, as will appears from the aforesaid judgment that the object of the grant to compassionate appointment is to

enable the family to tide over the sudden crisis. The object is to help the deceased family from starvation and not to make a selection. In the same judgment it has also been observed as under:-

"If must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned."

8. It is well settled that appointment on the compassionate ground is purely humanitarian consideration because of the fact that family will not be able to make both ends meet. The purpose of providing employment to the dependant of a Government servant dying-in-harness in preference to anybody else is to mitigate hardship caused to the family on the deceased on account of his unexpected death while in service. Thus compassionate appointment is treated to alleviate the distress of the family.

9. In view of the above, the respondent no. 2 is directed to decide the representations (filed as Annexure Nos. 3 and 4 to the writ petition) of the petitioner within a period of six weeks from the date of presentation of certified copy of the order.

10. Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

27.02.2006
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